

**REMARKS**

Claims 1-33 are pending in the application. The Office action rejected claims 1-33 under 35 U.S.C. § 102(e) as being anticipated by Henry et al ("Henry"), U.S. Patent No. 6,560,453. The applicant responds as follows.

Attached is a declaration under 37 CFR § 1.131 of the inventor, Michael J. Kinnavy, stating that the invention disclosed in this application was made in the United States prior to February 9, 2000, the priority date of the Henry reference. Given this declaration, Henry is no longer available as reference against the current application, and for this additional reason, the rejection under 35 U.S.C. § 102(e) should be withdrawn.

However, beyond the above-referenced declaration, the claims of the instant application are patentably distinct over Henry. Each of the independent claims, 1, 12, and 22 recite receiving slot cycle information from the base station, adjusting the operating slot cycle to a preferred slot cycle and transmitting the preferred slot cycle to the base station, wherein the preferred slot cycle is one of the slot cycles operable by the base station.

Henry teaches the selection of a slot cycle based on a number of conditions but doesn't teach or suggest selecting a slot cycle to be one of the slot cycles supported by the base station. Since Henry does not teach such a selection process, Henry does not anticipate every element of claims 1, 12, and 22.

Further, the prior art teaches that the operating slot selection is the smaller of a mobile station internal SCI and the broadcast SCI (background, page 2, lines 17-20). Henry does not teach a resolution between the mobile-preferred selection and the automatic assignment to a smaller selection from the base station. A communication system in accordance with the current disclosure resolves this by transmitting the preferred slot cycle to the base station, wherein the preferred slot cycle is one of the slot cycles operable by the base station.

For at least these reasons, Henry does not teach or suggest all the limitations of independent claims 1, 12 and 22. Therefore, claims 1, 12, 22 and their respective

independent claims 2-11, 13-21 and 23-33 are allowable and the rejection should be withdrawn.

In light of the above, it is believed that the case is in immediate condition for allowance and the applicant requests that the application be passed to issue. No fees beyond those enclosed for the one-month extension are believed due, but should additional fees be required, the Commissioner is directed to Deposit Account 13-2855.

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Respectfully submitted,

By

  
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